

REMARKS

If any issues remain after the examiner has considered this response, applicant's undersigned attorney would greatly appreciate the opportunity to discuss this case with the examiner. However, an interview is more useful if both the examiner and the applicant's attorney have the case fresh in mind at the time of the interview. Therefore, in the event that there are any remaining issues, applicant's attorney requests that the examiner call applicant's attorney when this response is reached in order to set up a time for a telephone interview that gives applicant's attorney at least couple days to review the matter before the interview. An interview request form is attached to this response.

Preliminary Matters

Applicant affirms the election as described by the examiner in the office action of 06/11/2009.

Applicant has been informed that the required copy of the priority document has been provided by the IB.

In paragraph 5 of the office action, the examiner required correction of the references to canceled claims 1 and 9 that the examiner described as appearing on page 4 of the specification. It appears that the examiner is referring to paragraph [0010] of the specification on the page numbered page 3 which is the fourth page of the specification as stored on the patent office computer system (because the unnumbered cover page was apparently considered page 1). A correcting amendment is submitted as a part of this response.

Applicant requests reconsideration of the claims which are believed now allowable for the following reasons.

Claim 34

The body of claim 34, as amended, has two cooperating features that are non-obvious and make claim 34 allowable. The first feature is that the tying head is constructed so that the tying head is moved from the gripping position into a stretching position. The second feature is added by the current amendment and recites that the tying head is constructed so that, while the tying head is being moved from the gripping position into a stretching position, it is also being moved away from the conveying stop in the conveying direction. The second feature is not new matter because it is described in paragraph [0042] of the specification.

With respect to the first feature, the examiner said that this feature is disclosed in DE 10029171 or is admitted to be prior art. For all of the recited structures of claim 34 (before amendment), the examiner referenced pages 1-7 of the specification as the basis for the observation that the features were admitted prior art. For this first feature the examiner specifically referenced pages 6 and 7. The only places in the first eight pages of applicant's specification in which a tying head is mentioned in connection with stretching is paragraphs [0015] and [0026] . In neither of those paragraphs is the description admitted to be prior art.

The examiner may have been referring to paragraph [0008]. Paragraph [0008] describes a prior art stretching structure. However, (see lines 10-13) it is the holding pins, not any kind of tying head or gripping structure, that move counter to the conveying

direction of the dough strand. That sentence says that the gripper devices remain stationary. In claim 34, it is the tying head, not the holding pins or the associated shaping table that moves. Therefore, applicant respectfully requests the examiner to reconsider the observation that the admitted prior art shows that “the tying head is capable of moving from a gripping position to a stretching position”. Applicant respectfully submits that observation is in error because the prior art teaches movable holding pins and shaping table for stretching and applicant claims movable tying head for stretching.

Similarly, in DE 10029171, in particular Figs. 4 and 4a, a stretching displacement of the retaining pins 5 of the shaping or forming table 2 is taught in order to stretch the dough strand. In other words, in both the admitted prior art and in DE 10029171 it is the forming table 2 and the retaining pins 5 that are movable for stretching, not the tying head or the gripping device.

Therefore, the prior art shows moving the retaining pins and forming table and not moving the tying head to stretch the dough strand. Consequently, the prior art does not make it obvious to move the tying head and, in fact, teaches an entirely different structure for stretching. The prior art teaches away from the first feature by teaching making the forming table and retaining pins movable for stretching instead of making the tying head movable for that purpose.

The second feature that is added to claim 34 by amendment cooperates with the first feature. The second feature is that the apparatus is constructed so that, while the tying head is being moved from the gripping position into a stretching position (the first feature), the tying head is also being moved away from the conveying stop in the

conveying direction. That feature is not shown in any prior art. The Hemmerich reference (US 5,492,708) does not have any stretching step for the dough.

For these reasons, claim 34 as amended is believed allowable. Dependent claims 35 and 36 depend from claim 34 and for that reason are also allowable.

Claims 37 and 38

In the last office action, on page 5, in the last paragraph on the page, the examiner said that “the DE reference further discloses sensors (20, 21) for measuring the position of the dough strand (36) on the shaping table (2), wherein the sensors (20, 21) [are] disposed above the deflection sheaves (Fig. 2) around which the conveyors (3, 4) pass and on the sides of the shaping table (2).”

Applicant respectfully requests the examiner to reconsider that interpretation of the DE reference because it is believed to be in error for the following reasons.

Claim 37 recites that applicant’s sensors 38, 39 are positioned upstream of the gripping position which is illustrated in applicant’s Figs. 2 and 3. In DE 10029171, the sensors 20, 21 for measuring the dough strand end positions are located on an intermediate table 18 downstream of the gripping position in the conveying direction (see Figs. 1, 2 and 3). The prior art teaches the opposite from applicant.

Applicant’s claim 38 recites that the sensors 38, 39 are on the shaping table (2) that includes the retaining pins 5. In DE 10029171, the sensors 20, 21 are not on the forming or shaping table (2). In DE 10029171, the sensors 20, 21 are on an intermediate table 18. The forming or shaping table 5 and the succeeding intermediate table 18 are entirely different tables made separately from each other. Therefore, the DE reference

neither discloses nor makes obvious the subject matter of claim 38. The sensors of the DE reference are in a different place than applicant's sensors.

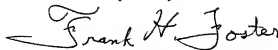
US 5,492,708 (Hemmerich) also does not disclose the claimed feature. Although Hemmerich describes sensors scanning the open or closed state and the location or position of the dough grippers in column 3, lines 16-19 or column 6, lines 44-47, no hint is given in Hemmerich of sensor scanning the positions of the dough strand ends. Sensors positioned to detect the position of the dough grippers is entirely different from sensors positioned to scan the position of the dough strand ends.

The remaining claims all depend from claim 38. Claims 37 and 38 are allowable for the reasons stated above and therefore the remaining claims are also allowable.

Therefore, reconsideration and allowance are respectfully requested.

The Commissioner is authorized to charge Deposit Account No. 13-3393 for any insufficient fees under 37 CFR §§ 1.16 or 1.17, or credit any overpayment of fees.

Respectfully submitted,



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Date of Signature

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